



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/727,919

12/04/2003

Marvin M. Johnson

2253-01201

7550

23505

7590

04/29/2010

CONLEY ROSE, P.C.

David A. Rose

P. O. BOX 3267

HOUSTON, TX 77253-3267

EXAMINER

NGUYEN, CAM N

ART UNIT

PAPER NUMBER

1793

NOTIFICATION DATE

DELIVERY MODE

04/29/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pathou@conleyrose.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/727,919	<b>Applicant(s)</b> JOHNSON ET AL.	
	<b>Examiner</b> Cam N. Nguyen	<b>Art Unit</b> 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03/16/10 (RCE) and 02/22/10 (amendment).
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 6, 10-16, 18-20, 23-30, 32, 33, 35-39, 41-44, 46, 47, 49, 66-70, 72-77 and 112-119 is/are allowed.
- 6) ☒ Claim(s) 51 is/are rejected.
- 7) ☒ Claim(s) 52-65 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Continuation of Disposition of Claims: Claims pending in the application are 1-4,6,10-16,18-20,23-30,32,33,35-39,41-44,46,47,49-70,72-77 and 112-119.

Art Unit: 1793

## **DETAILED ACTION**

### **Status of Continued Examination Application (RCE)**

1. A request for continued examination (RCE) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after the final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicants' submission filed on 03/16/10 has been entered.

### **Response to Amendment**

2. The amendment filed 02/22/10 has been made of record and entered. Claims 1, 11-12, 14, 51, 66-68, 112, & 114-115 have been amended. Claims 5, 7-9, 17, 21-22, 31, 34, 40, 45, 48, 71, & 78-111 have been canceled.

Claims 1-4, 6, 10-16, 18-20, 23-30, 32-33, 35-39, 41-44, 46-47, 49-70, 72-77, & 112-119 are currently pending in this application.

### **Claim Rejections - 35 USC § 102(b)/103**

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 1793

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 51** is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Boitiaux et al., hereinafter referred to as “***Boitiaux ‘481***”, (US Pat. 4,490,481).

***Boitiaux ‘481*** discloses a catalyst, which is consisting essentially of an inorganic carrier (alumina) supported with palladium (Group VIII metal) and gold (a second metal), and the palladium and gold compounds being used in amounts such that the resultant catalyst contains 0.01 to 1% palladium and 0.003 to 0.3% gold by weight (see col. 9, claims 1 & claim 8). In view of the process steps, the gold compound is supported or disposed onto the palladium-containing alumina carrier, which is the same catalytic structure as the instantly claimed catalyst.

Thus, even though the reference is silent with respect to the limitation on “having a single-pass conversion Sc of at least 90% in liquid-phase hydrogenation of acetylene” as being required in the instant claim, it would be inherent and expected that the catalyst of the reference would possess the same properties as the claimed catalyst and would have the same capability, such as “having a single-pass conversion Sc of at least 90% in liquid-phase hydrogenation of acetylene” as well because it is the same catalyst composition.

Art Unit: 1793

**Response to Applicants' Arguments**

4. The remarks filed on 02/22/10 have been fully considered, the arguments are deemed persuasive, thus the rejections made in the last office action have been removed. However, claim 51 is rejected over a newly discovered prior art to **Boitiaux '481** under a 102(b)/103 rejection. See above for details.

**Allowable Subject Matter**

5. **Claims 52-65** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Citations**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. All references are cited for related art. See PTO-892 Form prepared attached.

**Conclusion**

7. Claims 1-4, 6, 10-16, 18-20, 23-30, 32-33, 35-39, 41-44, 46-47, 49-70, 72-77, & 112-119 are pending. Claim 51 is rejected. Claims 52-65 are objected. Claims 1-4, 6, 10-16, 18-20, 23-30, 32-33, 35-39, 41-44, 46-47, 49-50, 66-70, 72-77, & 112-119 are allowed.

Art Unit: 1793

**Contacts**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner CAM N. NGUYEN, whose telephone number is 571-272-1357. The examiner can normally be reached on M-F, 9:00 AM - 6:30 PM, at alternative work site.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cam N. Nguyen/

Primary Examiner

Art Unit: 1793

/C. N. N./

April 24, 2010